

(2) A description of all pre-test and post-test activities related to mitigating and monitoring the effects of explosives detonation on marine mammal populations;

(3) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the detonation and numbers that may have been harassed due to presence within the designated safety zone;

(4) If one or more species' take levels have been reached or exceeded during the previous year, additional documentation must be provided on the taking and a description of any measures that will be taken in the following year to prevent exceeding the authorized incidental take level.

(5) Results of any population assessment studies made on marine mammals in the Outer Sea Test Range during the previous year.

§216.156 Renewal of Letter of Authorization.

(a) A Letter of Authorization issued under §216.106 for the activity identified in §216.151(a) will be renewed annually upon:

(1) Timely receipt of the reports required under §216.155(f) and (g), which have been reviewed by the Assistant Administrator for Fisheries, NOAA, and determined to be acceptable;

(2) A determination that the maximum incidental take authorizations in §216.151(b) will not be exceeded; and

(3) A determination that the mitigation measures required under §216.153(b) and the Letter of Authorization have been undertaken.

(b) If a species' annual authorization is exceeded, the National Marine Fisheries Service will review the documentation submitted with the annual report required under §216.155(g), to determine that the taking is not having more than a negligible impact on the species or stock involved.

(c) Notice of issuance of a renewal of the Letter of Authorization will be published in the FEDERAL REGISTER.

[59 FR 5126, Feb. 3, 1994. Redesignated and amended at 61 FR 15887, 15890–15891, Apr. 10, 1996]

§216.157 Modifications to Letter of Authorization.

(a) In addition to complying with the provisions of §216.106, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to §216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under §216.146, without modification, is not considered a substantive modification.

(b) If the National Marine Fisheries Service determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §216.151, or that significantly and detrimentally alters the scheduling of explosives detonation within the area specified in §216.151, the Letter of Authorization issued pursuant to §216.106, or renewed pursuant to this section may be substantively modified without prior notice and an opportunity for public comment. A notice will be published in the FEDERAL REGISTER subsequent to the action.

[59 FR 5126, Feb. 3, 1994. Redesignated and amended at 61 FR 15887, 15891, Apr. 10, 1996]

Subpart O—Taking of Marine Mammals Incidental to Shock Testing the USS SEAWOLF by Detonation of Conventional Explosives in the Offshore Waters of the U.S. Atlantic Coast

SOURCE: 63 FR 66076, Dec. 1, 1998, unless otherwise noted.

EFFECTIVE DATE NOTE: At 63 FR 66076, Dec. 1, 1998, subpart O was added, effective Jan. 1, 1999 through Sept. 30, 2004.

§216.161 Specified activity, geographical region, and incidental take levels.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in the detonation of conventional military explosives within the waters of the U.S. Atlantic Coast offshore